



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS TX 75202-2733

October 4, 2010

Albert R. Axe, Jr.  
Winstead PC  
401 Congress Avenue  
Suite 1200  
Austin, TX 78701

RE: Dispute Regarding EPA's Decision Document for the Time Critical Removal Action at the San Jacinto River Waste Pits Superfund Site  
Administrative Order on Consent for Time Critical Removal Action  
CERCLA Docket No. 06-12-10  
San Jacinto River Waste Pits Superfund Site near Pasadena, Harris County, Texas

Dear Mr. Axe:

This letter is providing notice to the Respondents (International Paper and McGinnes Industrial Maintenance Corporation) that the Negotiation Period for the dispute regarding EPA's Decision Document for the Time Critical Removal Action at the San Jacinto River Waste Pits Site has ended and EPA is declining to extend the Negotiation Period.

The EPA held a conference call with Respondents, on September 16, 2010, to discuss the dispute and to see if a resolution could be had between EPA and Respondents. The negotiations became mired in discussions by Respondents that there are minimal health effects from dioxin and that dioxin is not bad for human consumption. The EPA fundamentally disagrees with this position. The EPA considers dioxin to be highly toxic and dioxin is a listed hazardous substance. In light of the polar opposite positions of EPA and Respondents with regards to the toxicity of dioxin, negotiations could not proceed past this issue.

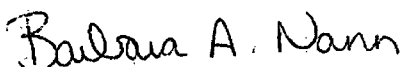
In addition to EPA attempting to negotiate a resolution to the dispute, EPA responded to Respondent's claim made in their September 10, 2010, letter that EPA approved Respondent's flow criteria analysis which endorsed a removal action with a thinner interim protective barrier than what was proposed in EPA's Decision Document. Respondent's dispute is based entirely on this alleged approval. During the conference call, the Remedial Project Manager stated he did not give verbal or written approval of Respondent's design flow criteria in the design of the alternatives proposed by Respondents and Respondents admitted that EPA never approved Respondent's proposed 10 year flow criteria on which Respondent's believe the removal action should be based.

Given that a resolution of the dispute over the design of the interim waste pits protective barrier does not seem feasible in light of the fundamental disagreement between EPA and

Respondents regarding the endangerment posed by dioxin, EPA will not be extending the Negotiation Period. Per Paragraph 71 of the Administrative Order on Consent, Docket No. 06-02-10, an EPA management official at the branch chief level or higher will issue a written decision on the dispute to Respondents. All written submissions will be provided to the EPA management official for review in deciding and issuing a written decision regarding the dispute over the interim waste pits protective barrier. Charles Faultry, Associate Director, Remedial Branch, Superfund, is the designated EPA management official who will decide the dispute.

If you have any questions concerning this matter, please contact me at (214) 665-2157.

Sincerely,

A handwritten signature in cursive script that reads "Barbara A. Nann".

Barbara A. Nann  
Assistant Regional Counsel